

Message

From: Dickinson, David [Dickinson.David@epa.gov]
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To: Simon, Karl [Simon.Karl@epa.gov]; Charmley, William [charmley.william@epa.gov]; Moran, Robin [moran.rob@epa.gov]; Orlin, David [Orlin.David@epa.gov]
Subject: California AG Outlines Legal Claims Against EPA Vehicle GHG Rule Proposal

<https://insideepa.com/daily-news/california-ag-outlines-legal-claims-against-epa-vehicle-ghg-rule-proposal>

Daily News**California AG Outlines Legal Claims Against EPA Vehicle GHG Rule Proposal**

October 24, 2018

California Attorney General (AG) Xavier Becerra (D) is outlining the state's chief legal arguments against the Trump administration's plan to roll back vehicle greenhouse gas standards, while also expressing optimism that the state can reach an agreement with automakers on an alternative regulatory proposal.

The joint rulemaking by EPA and the National Highway Traffic Safety Administration (NHTSA) is "violative of numerous important procedural requirements, such as the Administrative Procedure Act," Becerra said during an Oct. 24 press call that also included Illinois AG Lisa Madigan (D), previewing the states' formal comments they plan to file by an Oct. 26 deadline.

"We're going to argue that the federal government's actions contravene their mandate from Congress under the Clean Air Act and the Energy Policy Conservation Act," Becerra said. "We'll make it very clear that the rollbacks rely on technical analysis that is arbitrary and capricious. We're going to make it very clear that NHTSA's environmental impact statement violates the National Environmental Policy Act and is also arbitrary and capricious."

In addition, the administration's proposal to revoke California's Clean Air Act waiver to implement its own GHG standards -- which 13 other states have adopted -- "is unlawful," Becerra added. "And we're going to make sure that we defend California's waiver for its GHG and zero-emission vehicle standards to the very end."

Becerra and Madigan will detail their arguments in a joint comment letter to the federal agencies that will include 17 other state AGs, Madigan said during the call.

The officials' comments echo and add to recent statements by [numerous other politicians](#) and [stakeholder groups](#) in opposition to the administration's proposal.

But Becerra said he is optimistic that ongoing talks between California Air Resources Board (CARB) officials and automakers could forge an agreement on an alternative regulatory pathway that seemingly could be presented to EPA and NHTSA in the coming months.

"My sense is that everyone would agree that it makes a lot of sense to move forward" with one set of national rules, rather than separate programs covering the California-led states and the rest of the country. "With further discussion I think we can get there," he added. "And I think the industry probably would tell you that they think they can get there as well."

Becerra added that he believes “most of the auto industry is now fearful of where the federal government is now trying to go. . . . The auto industry got a lot more than what it was expecting,” when it initially asked Trump officials to soften the current, Obama-era rules.

EPA & CARB Friction

CARB recently sent requests to auto companies to submit plans for how they intend to comply with the current vehicle GHG standards through model year 2025, a move that some believe could result in possible new compliance “flexibilities” for a potential compromise with the Trump administration on retaining one set of national standards.

CARB is meeting with auto company representatives this month and likely early next month, a CARB spokesman has said.

However, there appears to be considerable friction between EPA and CARB regarding any future “counterproposal” from the state in the coming months.

Acting EPA Administrator Andrew Wheeler is [urging California to submit](#) such a counterproposal, but CARB officials have said that the federal agencies and automakers have not provided information necessary for any serious dialogue.

Asked for an update on CARB's talks with automakers, Becerra during the Oct. 24 press call referred the question to CARB Chairwoman Mary Nichols for information. CARB spokesmen did not immediately respond to a request for comment.

But Nichols told *Bloomberg* recently that automakers have “never submitted to us any information that would back up” claims of a need for more flexibility “in any detail to help us craft a solution. They’ve just said, ‘It’s too expensive, too hard, can’t do it.’”

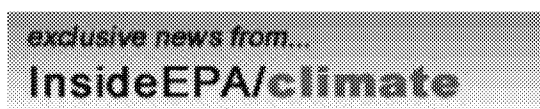
Nichols during that interview left the door open to offering a counterproposal -- a step the story said the Trump administration “seems to prefer” -- but said it is not clear if the state would do so.

California officials continue to complain that the federal proposal lacks the required background data to justify EPA and NHTSA claims for rolling back the standards, including [their controversial assumptions](#) about reduced traffic fatalities under the plan, in part because of assumptions that older, less safe vehicles will be replaced by newer, safer models.

“We’re looking to see the evidence and the research that went into coming to those conclusions,” Becerra said during the press call. “We’d really like to be able to examine, scrutinize the argument and the factual and scientific basis for that. . . . We think that the current facts prove that as cars and trucks have become lighter and more efficient, we’ve actually seen lives being saved as well.” -- *Curt Barry*

(cbarry@iwpnews.com)

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